

**A Guide for Use by Sponsors/Owners Developing Housing Under HUD's  
-- Section 202 Supportive Housing for the Elderly Program  
-- Section 811 Supportive Housing for Persons with Disabilities  
Program**

**I. PURPOSE**

This guide is designed to be used to assist Sponsors/Owners participating in the Section 202 and Section 811 Programs in screening sites to identify environmental conditions **prior to** entering into a contract for sale or option agreement, and ultimately choosing a site that presents little or no environmental risks. This guideline addresses the most common, but not all, environmental problems --

- o Toxic/Hazardous Waste
- o Underground Storage Tanks
- o Asbestos
- o Lead

**NOTE:** This does not replace the HUD environmental review; but supplements it. HUD must still prepare an environmental assessment/compliance record for environmental factors that are addressed by the National Environmental Policy Act and other environmental laws, statutes, Executive Orders and regulations in accordance with 24 CFR Part 50.

**II. BACKGROUND**

There has been a rise in the number of incidences of Sponsors/Owners acquiring property which was later discovered to be contaminated. It is essential that Sponsors/Owners become familiar with the potential environmental issues involving property acquisitions **before** acquiring the property. Innocent Sponsors/Owners that acquire the property with good intentions could face inordinate costs, indefinite delays in using the property, termination of HUD's funding commitment and/or defaults. In addition, there is the bureaucratic maze of local, State, and Federal environmental agencies to confront, as each will become involved in overseeing the clean-up.

**A. Environmental Legislation -- Federal Superfund Statute**

The legislation that has the most serious impact on persons involved in real estate and transactions undertaken in connection with the purchase and sale of real property is

the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act) or more commonly known as "**CERCLA**". CERCLA was enacted to establish a trust fund, referred to as the "Superfund", for the Government cleanup of hazardous waste sites. Although Federal and State Governments may finance the cleanup actions from the Superfund, CERCLA authorizes the Government to recover the Superfund expenditures from the parties deemed responsible for contaminating the site.

#### B. **Innocent Landowner Defense**

The innocent landowner defense provision was added to the CERCLA to provide some relief from liability under the CERCLA to those "innocent" landowners who unknowingly purchased contaminated properties. However, under the innocent landowner defense, it must be proved that the purchaser of the contaminated property could not have known that the disposal of hazardous substances had taken place on the land and that the landowner undertook all appropriate inquiries into the previous ownership and uses of the property in accordance with good commercial and customary practice. Accordingly, if you, the purchaser, do not make all of the appropriate inquiries about the property, it would be very difficult to prove that you had no reason to know of the contamination if it is later discovered that such contamination exists.

### III. **THE TYPES OF ENVIRONMENTAL AUDITS/ASSESSMENTS**

The environmental audit/assessment is an inspection or examination technique designed to screen real estate for environmental problems. The assessment is performed in several stages and when completed it will provide a detailed description of the environmental condition of the property. **However, its benefits can only be realized if the assessment is performed before your organization closes/settles on any offer to purchase a site or property.**

#### A. **Transaction Screen Process**

The Transaction Screen Process is a mechanism designed to help the preparer to reach a "preliminary" decision regarding the possibility of environmental problems and the need for further inquiry or action. **If further study is determined to be required, a Phase I Site Assessment is then performed.**



- The screening is usually done on a specific form such as the Transaction Screen Questionnaire (TSQ) -- one for commercial properties and a separate form for residential properties.
  - ^ The TSQ provides for a series of carefully worded questions, which are designed to make a preliminary judgement about the environmental condition of the property.
  - ^ When completed, the preparer should know whether further study is needed.
- The TSQ preparer investigates the property by making a site visit to personally observe the property, including all buildings and structures on it, and the adjacent properties.
- The TSQ preparer asks questions of the current property Owner and any occupants regarding environmental matters of the property.
- The TSQ preparer conducts a government records/historical sources inquiry.

**NOTE THAT** ~~ The Transaction Screening Process is not an in-depth environmental inspection as the preparer does not specifically identify any apparent environmental hazardous materials by name and does not test any substance found on the property.

## B. Phase I Site Assessment

This is a **qualitative** assessment. The Phase I assessment, along with the Transaction Screening Process, is intended to help Owners satisfy the requirements to qualify for the innocent landowner defense to CERCLA liability. Upon its completion, you should be able to meet the definition of an "appropriate" inquiry for purposes of the CERCLA's innocent landowner defense. This covers three general areas regarding the environmental condition of the property:

- Conducting an historical research into the previous ownership and uses of the property, such as ~~
  - ^ reviewing recorded chain title documents (i.e., deeds, easements, leases, restrictions, and covenants for a 50-year period;

- ^ reviewing aerial photographs reflecting prior uses;  
and
- ^ determining the existence of recorded environmental  
liens.
- o Making a comprehensive government records review at the  
Federal, State, and local levels.
- o Making a critical visual site inspection of the subject  
property and of the immediate adjacent properties,  
including a look for any chemical uses, storages,  
treatment and disposal operations on the property.

**NOTE THAT** ~~ In the Phase I assessment, no samples are  
taken and no tests are made of any  
materials (i.e., no air, water, soil, or  
site substances are tested or analyzed).

#### C. **Phase II Site Assessment**

The Phase II assessment may be defined as a **quantitative**  
assessment. It is the actual testing for specific hazards,  
which may have been identified in the Phase I assessment,  
such as soil (soil boring), water, on-site substances, and  
direct testing of the property.

#### D. **Phase III Site Assessment**

Phase III is a **management action** stage. It involves an  
assessment of the seriousness of the hazard(s) identified  
based on the findings of the previous phases with corrective  
action. The action may include:

- o The removal, along with the appropriate transport and  
disposal, of any contaminants or hazardous materials;  
AND
- o Clean-up of any contaminated materials on the site;  
OR
- o The development of a plan to manage and control the  
hazard.

#### IV. **COMPLIANCE WITH SECTION 202 AND SECTION 811 PROGRAM REQUIREMENTS REGARDING ENVIRONMENTAL ASSESSMENTS**

To help Sponsors focus on this important issue, HUD now requires,  
all applicants that are planning on submitting an Application for

a Section 202 and/or Section 811 Fund Reservation to conduct an environmental review/assessment of their proposed sites by

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completing a **Phase I Environmental Site Assessment and, if required based on the following instructions, a Phase II Environmental Site Assessment.** The environmental assessments are to be done in accordance with the American Society for Testing and Material (ASTM), Standard E 1527-93, as amended. Your consultant, architect, attorney, or engineer may be able to provide you a copy of the ASTM standards. Also, to obtain these materials, you may write ASTM directly at the following address:

ASTM Customer Service, 100 Barr Harbor Drive, Conshohocken, PA 19103 or for faster service, call (610) 832-9500 (fax number is (610) 832-9555).

- All Section 202 and Section 811 Sponsors must complete and submit to the local HUD Office a Phase I Environmental Site Assessment. **This must be submitted to the local HUD Office with the Application for a Fund Reservation.**
- If the Phase I Environmental Assessment indicates the possible presence of contamination and/or hazards, further study or action is required.
- If after completing the Phase I Assessment and it is determined that further study is required, The Sponsor must decide whether to continue with the original site or choose another site.
- If the Sponsor chooses another site, the same environmental site assessment identified above (the Phase I Assessment) must be completed for the alternate site and submitted to the local HUD Office with the Application for a Fund Reservation.
- If the Sponsor chooses to continue with the original site, a detailed Phase II Environmental Site Assessment by an appropriate professional will have to be completed and submitted to the local HUD Office by the deadline date specified in the current Section 202 and Section 811 Notices of Fund Availability (NOFA).

**BEWARE: THE PHASE II ASSESSMENT COULD BE AN EXPENSIVE UNDERTAKING. ALTHOUGH THE COST OF THE STUDY CAN BE PAID OUT OF THE CAPITAL ADVANCE AMOUNT IF THE PROJECT IS SELECTED, THE COST OF ANY CLEAN-UP AND/OR REMEDIATIONS MUST BE BORNE BY THE SPONSOR/OWNER. ALL COSTS ASSOCIATED WITH THE ENVIRONMENTAL ASSESSMENTS DESCRIBED IN THIS SECTION MUST BE BORNE BY THE SPONSOR IF THE APPLICATION IS NOT SELECTED.**

- ^ If the Phase II Environmental Assessment reveals site contamination, the extent of the contamination and a plan for clean-up of the site also must be submitted to the local HUD Office by the deadline date identified in the NOFA.
- ^ The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site.

#### V. BE SUSPICIOUS OF A "GOOD" DEAL

Because Section 202 and Section 811 Sponsors are nonprofits and organized for charitable purposes, the Sponsors are not only looking for the "right" site and location but a good deal on the purchase price. It is not unusual for Sponsors to:

- o Be offered and accept donated property (including existing structures and land or both);
- o Target blighted neighborhood structures or land for housing redevelopment; or
- o Obtain properties at bargain basement prices, low-interest loans and grants, or through "special deals" with Federal or local government housing or community development agencies or programs.

In spite of good intentions, donated property and property acquired based on special deals are no longer the clear-cut benefit they once were. If the property you acquired contains toxic (or hazardous) wastes, underground storage tanks, asbestos, or lead, mere ownership of a contaminated site can be enough to make your organization liable for all clean-up costs.

**BEWARE THAT** ~~ Even if you can demonstrate and legally prove that you, the most recent one to acquire the property, "did not" contaminate or contribute (transfer, store, or dispose of) wastes to the property, and the previous owners/operators of the property can be found and are solvent, you, the Sponsor, can expect to face a legal battle to divide the costs of cleaning the site. Meanwhile, the development of the property is suspended indefinitely.

## VI. STEPS TOWARD SECURING A "CLEAN" SITE

In searching for the perfect site and location, before you invest the organization's funds in securing a site, there are certain things you can do or consider which will aid you in determining the possible presence of hazardous substances on site.

### A. **Take care in choosing the site/location for your proposal.**

For example, sites that were previously used as or near agricultural/farming operations could have environmental problems because of the storage of pesticides on the site.

Sites that were used as tanneries also could present a health hazard because of the potential for spreading contagious diseases.

### B. **Make a quick visual inspection of the site for signs of ~**

#### o **Distressed vegetation**

-- This could be an indication of soil contamination.

#### o **Vent or fill pipes**

-- This could be a sign of current or previous existence of underground storage tanks.

#### o **Storage/Oil tanks or questionable containers**

-- These are most often used to store heating fuels, chemicals, and petroleum products.

#### o **Pits, ponds or lagoons**

-- These have the potential for holding liquids or sludge containing hazardous substances or petroleum products. The potential is increased if there also exist (1) water discoloration; (2) distressed vegetation; and (3) wastewater discharge.

#### o **Stained soil or pavement (other than water stains)**

-- This could mean that the soil is contaminated and could be a sign of current or previous leakage of piping and liquid storage containers.

#### o **Pungent, foul or noxious odors**

-- This could indicate leaks of hazardous substances or petroleum products or contaminants.

- C. **Determine the past use of the site.** If the land is currently vacant, inquire of the Owner of its knowledge of the site usage. Some States/localities require the transferor to disclose specific information about the environmental condition of the site to the purchaser. If your State/locality has no such requirement, negotiate such a disclosure with the owner. Certain uses (past and present) of the site may raise concerns about the possibility of contamination, such as the following operations:

- o Gasoline stations
- o Vehicle repair shops
- o Car dealerships
- o Garages
- o Depots
- o Warehouses
- o Commercial printing facilities
- o Dry cleaners
- o Photo developing laboratories
- o Hospitals
- o Apartment buildings
- o Junkyards or landfills
- o Waste treatment, storage, disposal, processing or recycling facilities
- o Agricultural/Farming Operations
- o Tanneries

**NOTE THAT** ~~ These facilities involve the use of hazardous substances, petroleum products, or pose a potential health hazard. If the site was used for these purposes, a further and more detailed review is required to determine the possible release of any hazardous substances.

- D. **Note the adjoining properties/surrounding area for evidence of any facilities as described above.**

**NOTE THAT** ~~ A site that may be considered free and clear of any hazardous substances may still be contaminated as a result from toxic and hazardous waste produced by neighboring facilities.

- E. **Research Federal, State and local records about possible toxins and hazards at the site.**

## VII. HOW TO PROTECT YOUR ORGANIZATION

### A. **Demand the seller/donor to make full disclosures about the environmental condition of the property.**

- To protect your organization, insist on having language included in the site contract documents that address liability for environmental problems. Consult with an attorney, if necessary. Include protective language that ~~
  - ^ Addresses the obligation for financial responsibilities for removal, transport, disposal, clean-up or abatement action;
  - ^ Allows for property audits;
  - ^ Allows cancellation of the contract if the audit or disclosures reveal problems;
  - ^ Addresses seller warranties of conditions; and
  - ^ Addresses seller indemnification.
- Use State or local "Property Transfer" statutes, if available. These statutes often contain provisions for disclosure of environmental problems.

### B. **Beware of the overanxious seller/donor.** Be alert to ~~

- Property being sold "as-is".
- Seller/Donor's reluctance to allow an environmental inspection.
- Seller/Donor's reluctance to accept contingency clauses.
- Seller/Donor's unwillingness to disclose information about the property.
- Any unexplained concessions in price to speed up the real estate transaction.

### C. **Consider an alternate site**, if based on the findings of the Transaction Screening Process and/or a Phase I Assessment and an environmental professional that the property has significant environmental problems, and the related abatement/clean-up action would be costly.

D. **Get to Know the environmental laws/regulations.**

- o Federal "**Superfund**" Statute aka **CERCLA** (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by **SARA** (Superfund Amendments and Reauthorization Act)).
  - ^ Identifies Owner of hazardous waste sites.
  - ^ Assigns liability -- Parties involved in the real estate transaction may find themselves strictly and jointly and severally liable for clean-up costs.
  - ^ Establishes defenses ~~
    - Bequests
    - Landowners' relief for innocent purchasers
    - Third party provisions
- o **Resource Conservation and Recovery Act**, as amended aka **RCRA**.
  - ^ Contains special provisions concerning Underground Storage Tanks and enforced by ~~
    - State or Municipal Environmental Protection Agency - Leaking Underground Storage Tanks Program
    - State Fire Marshal - Registry and Financial Responsibility
    - Fire Marshal - Inspection and Permitting
    - State or Municipal Emergency Services and Disaster Agency
  - ^ Defines and regulates Treatment, Storage or Disposal Facilities (TSD) of hazardous wastes -- EPA maintains a TSD Facilities List.
- o **Asbestos Regulations.** Contact the U.S. Environmental Protection Agency (EPA) to obtain a copy of the Asbestos Demolition/Renovation Regulations.
- o **Lead Toxicity Risk Assessment.** Published in the Federal Register by EPA. Contact EPA or the local HUD Office to obtain a copy of this document.

o **Environmental Justice.**

- ^ Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".
  - Directs Federal agencies to incorporate environmental justice as part of their overall mission.
  - Establishes an Interagency Working Group to provide guidance and work with Federal agencies to develop environmental justice strategies.
- ^ Its purpose is to achieve fair environmental protection so that no segment of the population, regardless of race, ethnicity, culture, or income bears a disproportionate burden of the consequences of environmental pollution (i.e., to ensure that no one part of the population, primarily minority and low-income, receives inequitable treatment in the location of housing designed for their needs).
- ^ Administered by the EPA Office of Environmental Justice.

**NOTE: Take care in choosing the site/location for your project. The site you choose should never raise an environmental justice concern.**

- o **EPA Program Hotline Telephone Numbers.** A list of the EPA program hotline telephone numbers is attached to this guide for your reference.

## VIII. GETTING ACQUAINTED WITH POTENTIAL ENVIRONMENTAL PROBLEMS

### A. **TOXIC AND HAZARDOUS WASTES**

Toxic and hazardous wastes can summarily be described as the "spoils" of industrial operations. This category of wastes include solids, liquids, or gases that threaten the environment and human health. Toxic and hazardous wastes can be ignitable, corrosive, reactive, and contain high concentrations of metals, pesticides, chemicals, etc. that when released, contaminate soils, ground and surface water, and air. Toxic wastes are classified as such, because of their carcinogenic, mutagenic (gene-changing), or teratogenic (causing fetal abnormalities/birth defects)

characteristics.

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It is possible for a site to have multiple toxic and hazardous wastes -- in contaminated soils, sitting in tanks (above and below ground), impounded in buildings, and dumped into wells, adjacent to, or onto open space surrounding the building. In this case, the waste might be buried improperly in pits where their leaking can contaminate surface and ground water and soils.

**REMEMBER** ~~ A site that appears to be free of toxic and/or hazardous waste could be contaminated as a result of current or previous operations of adjoining or neighboring facilities.

#### **B. UNDERGROUND STORAGE TANKS (USTs)**

USTs, by themselves, are not dangerous. Their contents and propensity to leak present the danger. Until recently, most USTs were constructed of material that rusted, corroded, and had no leak detection or protection devices. Consequently, once rusted, the tank's contents easily contaminate surrounding soil and groundwater. Groundwater contamination can cause significant cleanup problems. According to the Environmental Protection Agency, a single gallon of gasoline can render one million gallons of water undrinkable.

USTs were and are used most often by the petroleum industry, as well as other commercial facilities, where processing requires on-site application. For example, dry cleaning operations normally store chemicals on-site in USTs. This results in storage of large amounts of chemicals. To reduce the risk of fires and explosions, chemicals and petroleum products are stored underground in USTs.

Many residential properties also have USTs for heating oil and other uses. Because it is cheaper to place these tanks above ground, the tanks for some residential properties are located above ground.

#### **NOTE THAT** ~~

^ If you acquire a site with an UST, you may be responsible for the cost of removing it, as well as, cleaning up the site if it later is found to have been contaminated.



- ^ If you acquire a site that had USTs and the USTs were removed prior to you acquiring the site, but without any further testing for contamination, you still could be financially liable for cleanup costs and any costs of compensating other people for bodily injury and property damage.

**REMEMBER    ~~    BE SUSPICIOUS IF THE SITE HAS/HAD, BUT NOT LIMITED TO, THE FOLLOWING OPERATIONS --**

- o Gasoline stations
- o Vehicle repair shops
- o Car dealerships
- o Garages
- o Depots
- o Warehouses
- o Commercial printing facilities
- o Dry cleaners
- o Photo developing laboratories
- o Hospitals
- o Apartment buildings
- o Junkyards or landfills
- o Waste treatment, storage, disposal, processing or recycling facilities
- o Agricultural/farming operations
- o Tanneries

**<<<    RESOURCES TO HELP YOU IDENTIFY SUSPECT PROPERTIES    >>>**

Knowing what sites to avoid may be difficult if the land use for the site changed over time. The following aids can help you assess probable location by land use or the presence of USTs:

**o    Sanborn Fire Insurance Maps**

- ^ Aid fire insurance companies in evaluating risk
- ^ Designate gasoline stations
- ^ Identify other land uses on a block-by-block basis
- ^ Dated to the late 19th Century making it possible to trace uses of a land parcel from the 1880's to the present day

### o Registry of USTs

- ^ EPA requires each State to develop an UST regulatory program
- ^ Many States/localities maintain public records in the State Fire Marshal's Office or its equivalent, Groundwater Management Division, or State Emergency Planning and Management Agency
- ^ Some States/localities developed their own UST regulatory programs and you will have to contact the responsible office that oversees the program

### o U.S. Environmental Protection Agency (EPA)

- ^ If all else fails and you are still uncertain, contact the EPA's Underground Storage Tank Office.
- ^ The local HUD Office can provide you with the appropriate EPA Office or you can contact EPA directly at the appropriate hotline telephone number which is attached to this guide.

## C. ASBESTOS (Projects Requiring Rehabilitation or Demolition of Existing Structures)

Asbestos is a generic term that refers to a family of mineral silicates -- six naturally occurring fibrous minerals found in certain types of rock formations. Of the six minerals, three -- chrysotile, amosite, crocidolite -- have been most commonly used in building products. When processed, asbestos separate into thin but extremely strong fibers.

Because of its unique characteristics -- resilience, weightlessness, corrosion-resistance nature, low conductivity, and, more importantly, its inability to burn, asbestos was used in many buildings and commercial products -- floor tiles, roofing and sound roofing, ceilings, sealants, cement pipe, decoration, paper products, textiles, appliances, and pipe and boiler insulation, among things -- beginning early in this century and up until the mid-1980's. **Consequently, most buildings constructed before the mid-1980's are likely to contain asbestos.** However, asbestos is not biodegradable or easily destroyed.

Asbestos or asbestos-containing-material (ACM) -- i.e., any material or product that contains more than one percent asbestos -- can be grouped into two broad categories ~~

- o **Friable:** Materials and products which, when dry, can be crumbled, pulverized, disturbed, punctured or otherwise easily reduced to powder by mere hand pressure.

Friable asbestos and ACM emit fibers easily into the air when disturbed and once emitted, asbestos fibers are easily inhaled in the lungs. When inhaled in sufficient quantities, asbestos and ACM can cause serious health problems. Asbestos-caused symptoms and diseases can take as long as 20 or more years before being diagnosed.

- o **Nonfriable:** Asbestos fibers that are bound and contained within a hard or solid matrix, such as roofing, siding, or flooring and are not prone to escape or emit fibers under ordinary use.

Once disturbed in either renovation, demolition, or rehabilitation construction activities, nonfriable materials also will release asbestos fibers into the air.

**REMEMBER ~~** Whenever asbestos fibers become airborne, they become a human health threat and air quality contaminant.

## <<< HOW TO DETERMINE THE EXISTENCE OF ASBESTOS IN A BUILDING THAT YOU ARE CONSIDERING ACQUIRING >>>

- o **Step A:** Quick and Inexpensive
  - Collect information about the construction materials in the building directly from the product manufacturer (if accessible and available).

**NOTE ~~** EPA has published in Volume 55 of the Federal Register, dated February 13, 1990, (beginning on page 5144), Asbestos; Publication of Identifying Information; Notice, which summarizes the information submitted by manufacturers and processors of certain asbestos products with an explanation on how individuals may obtain additional information.

- Request a visual inspection by people in the building trades, particularly heating and plumbing contractors, to ascertain the presence of asbestos. However, the accuracy of visual inspections can vary considerably.

**o Step B: More Expensive, but More Conclusive**

- Hire a licensed or certified specialist from the asbestos abatement industry to inspect the property.
- Collect and submit sample materials to a laboratory qualified to conduct asbestos testing.

**NOTE ~~** To assure quality laboratory testing, EPA maintains a national listing of approved laboratories that test samples for their asbestos contents. Contact EPA to obtain this information. Refer to the EPA program hotline telephone numbers which are attached to this guide.

## <<< ABATING ASBESTOS >>>

**o Federal/State Requirements**

The removal of asbestos is expensive. As with other hazards, there are both Federal regulations, and in most instances, comparable State requirements that regulate:

- ^ Worker exposure to asbestos
- ^ Procedures for abating asbestos when building undergoes renovation or demolition
- ^ Disposal (transport, storage, and disposal) of asbestos-contained materials

o **Options for Minimizing the Risk of Asbestos Exposure**

- ^ Maintenance
- ^ Encapsulation
- ^ Enclosure
- ^ Removal

Choose the option based on the type of asbestos or ACM and in accordance with Federal, State and local requirements.

For example:

o **REMOVAL ~~**

- EPA requires the removal of all friable asbestos before any other demolition, renovation, or rehabilitation take place.
- This is the most expensive, complicated and strictly regulated option.

o **MAINTENANCE, ENCAPSULATION AND ENCLOSURE ~~**

- Under these options, the asbestos and ACM remains in place.
- These options are not as closely regulated as the removal option, but available guidelines still must be followed.

**NOTE THAT ~~** Regardless of the option you choose, it would be in your organization's best interest to hire a qualified asbestos contractor.

D. **LEAD** (Existing Structures for Families Where Children Under 6 Years of Age may be Expected to Reside)

Lead poisoning is one of the most common health hazards to humans. Although anyone can contract lead poisoning, children and women of childbearing age are at the greatest risk. Childhood lead poisoning is considered a major health problem because of its extremely damaging and irreversible effects. The exposure to lead in children (including pregnant women) can cause brain damage, liver and kidney disorders, behavioral problems, blindness, permanent learning disabilities, and even death.

Buildings and homes constructed **before 1980** could have lead based paint. **The primary source of lead is from the chipping and peeling of lead-based paint and paint dust.** It is more commonly found on exterior and interior walls, but also may be on baseboards, door and window trimmings and heating units. Lead poisoning also can be obtained from lead in the air, dust, soil, food, certain commercial products (eg., automotive and industrial batteries), and even water. In the latter case, the use of lead soldered pipes in older structures is responsible for lead getting into the water.

**NOTE THAT** ~~ The risk of the presence of lead in older buildings that you plan on acquiring may result in an expensive acquisition. Consider the health risk to the occupants and the possible costs of civil liability and criminal penalties if lead is present, but neither detected or removed. Also, the cost of lead removal or abatement, by itself, may be significant.

### <<< DETERMINING THE PRESENCE OF LEAD >>>

Two methods may assist you in determining whether lead is present in the property you plan on acquiring --

#### o **Method 1: Scoring the Building Based on Risk Factors**

- Use the Lead Toxicity Risk Assessment developed by EPA as a guide to help you detect potential lead problems.
  - ^ This is not scientific, but less costly, and can help establish the likelihood of lead problems.
  - ^ A copy of the Lead Toxicity Risk Assessment may be obtained from EPA or the local HUD office.

#### o **Method 2: Testing**

- There are two testing methods that produce accurate lead readings:
  - ^ **XRF-X-Ray Fluorescence Detector** -- This is the newest testing technology which is also available in portable form. The XRF portable is capable of measuring between 30-50 samples in three hours and provide immediate results.

- ^ **Laboratory Testing** -- Laboratory testing of samples physically collected and removed from the property is a method of obtaining lead readings. However, unlike the newer technology of XRF, it is more time-consuming and the results are not immediately available.

### <<< ABATING LEAD >>>

- o Hire certified lead abatement contractors only for the removal or other lead abatement remedies. They are most familiar with applicable Federal and State requirements for removal and disposal.

**NOTE:** Do not assign this task to general contractors, volunteers or occupants.

- o Find out what State and local programs exist regarding lead blood screening for children that may affect your organization, particularly Section 811 Sponsors proposing existing housing (with or without rehabilitation) for persons and families with disabilities.

**NOTE:** Some States have mandatory lead blood screening for children, such as Illinois.

- o For additional information ~~
  - Get a copy of the HUD brochure entitled **Lead-Based Paint: A Threat to Your CHILDREN**; and
  - Contact your local Health Department; or
  - Call the National Lead Information Center at 1-800-532-3394 (1-800-LEAD-FYI), a toll-free number.

**It is important to note that an occurrence of heightened lead blood levels may result in your organization becoming liable for remediation activity.** In many localities, a doctor who identifies the heightened lead blood levels may be required to report such a finding to the local health authorities who, in turn, may have the power to require lead abatement for the child's living environment.

**REMEMBER** ~~ The Owner of a building occupied by a child with an elevated/heightened lead blood level may, at a minimum, face a court hearing or a court order to clean-up the property along with fines. Ignoring a potential lead problem could financially ruin your organization.

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**SOURCE:** The Property That You Acquire May Be An Environmental Toxic Plot  
-- By Antoinette G. Sebastian  
Office of Environment and Energy  
U.S. Department of Housing and Urban Development

ATTACHMENT

U. S. DEPARTMENT OF ENVIRONMENTAL PROTECTION AGENCY

PROGRAM HOTLINE TELEPHONE NUMBERS

EPA Program Hotlines can answer questions about regulations and rules, and order documents. Existing EPA hotline numbers are:

RCRA/SUPERFUND .....	1-800-424-9346
SOLID WASTE .....	1-800-424-9346
UNDERGROUND STORAGE TANKS .....	1-800-424-9346
GROUNDWATER PROTECTION .....	1-800-426-4791
TOXIC SUBSTANCES CONTROL ACT (TSCA) ASSISTANCE .....	1-202-554-1404
ASBESTOS .....	1-202-554-1404
LEAD-BASED PAINT .....	1-800-532-3394 (1-800 LEAD FYI)
ENVIRONMENTAL JUSTICE .....	1-800-962-6215

